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December 8, 2004

Alva E. Smith, Esq.  
Office of the General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463

Re: MUR 5564

Dear Ms. Smith:

The undersigned represents the Alaska Democratic Party ("ADP"), and Joelle Hall, as Treasurer in the above mentioned matter. This matter was generated by a complaint filed by Wiley Brooks against the ADP, the Democratic Senatorial Campaign Committee and the Knowles for Senate Committee. The complaint completely misapprehends the relationship between a federal candidate and the party committees that support that candidate. All activities undertaken on behalf of the Knowles for Senate campaign by the ADP were entirely legal and appropriate. Furthermore, all funds received by the ADP were entirely legal and appropriate.

Although Mr. Brooks' complaint meanders back and forth between allegations of violations between the different entities, we will try to address all allegations that appear to be made against the ADP:

1) The complaint asserts that the fact that the DSCC has transferred in excess of \$1,700,000 to the ADP somehow implies that the ADP is violating the law by making expenditures on behalf of Tony Knowles. It is perfectly legal for the DSCC to transfer funds, without limit, to the ADP for the purpose of supporting the ADP's federal activities. 2 U.S.C. § 441a(a)(4). Of course, the DSCC is more likely to support a state party in a state where they consider a Senate candidate to be in a competitive race. Such transfers are commonplace, and, in no way reflect the fact that the state party is being operated solely on behalf of any particular federal candidate.

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2) The complaint alleges that the ADP has opened regional offices around the state exclusively for the benefit of the Knowles campaign. The complaint further alleges that the entire amount of the costs of these offices must be allocated to the Knowles campaign since this race was the only race that the ADP was concerned with during the 2004 campaign. This allegation is completely without merit. The ADP did establish regional field offices to conduct ticket-wide activity on behalf of the entire Democratic ticket. As the complaint concedes, there were three federal elections on the ballot in Alaska. Further, there were numerous state and local offices up for election for which the Alaska Democratic Party wished to assist in getting out the vote. Mr. Brooks asserts that the ADP did not attribute any of the costs of its field offices to the Knowles campaign. This is completely untrue. In fact, the ADP allocated 20% of all of the costs of its field program as a coordinated expenditure or was timely reimbursed by the Knowles campaign for that portion of the field program that was not allocated to the coordinated expenditure limit under 2 U.S.C. § 441a(d). The 20% allocation was based upon a good faith estimate of the amount of time that the ADP field operation spent undertaking activities directly on behalf of the Knowles campaign. The other 80% of this staff's time was spent undertaking generic activity on behalf of the party.

Based upon this allocation, it was perfectly appropriate for the ADP to work with its Senate nominee and to coordinate its field activities with the Knowles campaign. Although Mr. Brooks characterizes these offices as "Knowles" offices, each field office was staffed by individuals who were paid for by the ADP and were under the direct supervision of ADP employees and officers. At no time were these field employees ever supervised or controlled directly by any employee or officer of the Knowles campaign.

Although the ADP itself never identified these field offices as Knowles offices, since 20% of the administrative and staff costs of its field offices were either paid for directly by the Knowles campaign or designated as a coordinated expenditure, it was perfectly appropriate for the Knowles campaign to refer to these activities, in part, as Knowles offices. Ultimately, the entire field operation was directed and supervised by Bridget Gallagher, Executive Director of the ADP. Attached, please find an affidavit from Bridget Gallagher that describes the field plan Undertaken by the ADP. Ms. Gallagher's declaration demonstrates that the field operation was one that was designed to assist Democrats at all levels of office and to build the party's permanent field operations for future elections. Ultimately, the ADP and the Knowles campaign allocated \$473,683.63 either to its coordinated expenditure limit or as reimbursements received by the ADP from the Knowles campaign.

The ADP's decision to allocate 20% of its field operation to the Knowles campaign as an expenditure on behalf of the Knowles campaign actually went far beyond the requirements of the law. Due to a misunderstanding of the Commission's current coordination rules, the ADP allocated certain costs against this 20% allocation that are no longer required to be allocated to a federal candidate based upon changes to the committees coordination regulations that were undertaken in response to the Bipartisan Campaign Reform Act of 2002. For instance, the ADP included in its calculation, time spent by ADP employees delivering materials referencing Tony Knowles that were

delivered door-to-door, that are not required to be allocated as an in-kind contribution since such expenses are not "coordinated communications" as currently defined by the Commission's regulations.

As a general matter, it is customary for state party committees to utilize staff for the purpose of executing a field plan on behalf of its candidates. Ordinarily, the Commission has not required any allocation of administrative and staff expenditures to any particular candidate so long as those staff members are not working under the supervision of and solely on behalf of that candidate. To be sure, if all party committees were required to capture the amount of time of each staff member's work on particular campaigns, state party field operations would grind to a halt since there is no meaningful way to operate a state party field operation on behalf of federal candidates if the state party's costs are attributable to any particular federal candidate. Furthermore, the recordkeeping for such an undertaking would be incredibly difficult, if not impossible. Further, the reality is simple, not every state party is blessed with competitive races for each office. If that was the standard for determining the legality of state party field operations, then each and every state party in the United States would be in violation of 11 C.F.R. § 106.1 due to the declining number of competitive races in American politics. To be sure, in a presidential election year, it is safe to assume that both Republican and Democratic state party committees exert considerable time and effort to conduct activities on behalf of its presidential nominee exclusively in "battleground states" without having to allocate its staff and administrative costs as a contribution to its presidential nominee.

Consequently, the Commission's regulations, at 11 C.F.R. § 106.1(c) exempts "expenditures for rent, personnel, overhead, general administrative, fund-raising, and other day-to-day costs of political committees" from being attributable to specific candidates unless they are "extensively involved in managing or staffing this particular campaign on ongoing basis..." Statement of Reasons of Commissioners Aikens, Elliott and Josefiak, MUR 3218. In this matter, the ADP staff was supervised directly by the Executive Director of the Alaska Democratic Party, Bridget Gallagher. Further, contrary to the complaint's assertion, the ADP field staff was involved in numerous activities that benefited candidates across the party ticket and were involved in extensive long-term party building activities. The ADP does not dispute that these field staff were involved in canvassing specifically on behalf of the Knowles campaign. However, this was not the exclusive activity undertaken by the field staff.

Notwithstanding the ADP's decision to allocate 20% of its field operation the Commission's revised coordination rules require that in order for an activity undertaken by a party committee to result in an in-kind contribution or expenditure on behalf of a candidate, such activity must be a "public communication." 11 C.F.R. § 109.37(a)(2). In the case of the ADP field operation, only a small portion of the activities undertaken by these offices and staff members constituted "public communications." The overwhelming majority of the activities undertaken by over 150 field organizers were, in fact, 1) door-to-door voter registration, voter identification, and material distribution; 2) volunteer recruitment on behalf of the party, including recruiting for precinct captains and election-day poll watchers; 3) phone voter identification programs and persuasion

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calls; 4) encouraging voters to vote by absentee ballot; and 5) meeting with legislative candidates/campaigns and party officials to enlist their participation in all of the aforementioned activities. Field organizers in rural Alaska spent a significant part of their time not only going door-to-door but in traveling from village to village. Phone matches for these parts of the state are notoriously low, necessitating person-to-person contact.

A significant portion of the field program's work was accomplished via a canvass component that employed part-time staff whose *sole* activity was going door to door in urban communities to register voters, sign them up for absentee ballots, and/or identify them. This component of the field program was also accounted for under 441a(d) and/or through payments from the Knowles campaign even though it does not constitute a public communication as defined by the Commission.

Any voter identification information gleaned from these activities was the sole property of the ADP and was not provided to the Knowles campaign for its own use. The phone activities undertaken by the field employees (which was the only public communication in which these employees engaged in) reflected a small percentage of their time on any given day and, in many cases, were generic in nature.

Of the above described activities, the only activity that would require any allocation to the Knowles campaign would be that portion of the phone calls that persuaded voters to vote for or against the Knowles campaign. According to the declaration of Bridget Gallagher, such activities constituted far less than the 20% of the field office expenses that were allocated as expenditures on behalf of the Knowles campaign.

Thus, the ADP and the Knowles campaign's decision to treat as an expenditure on behalf of or receive reimbursement for 20% of the entire cost of its field program was, in hindsight, an overly conservative reading of the current campaign finance laws, and more than paid for any activities that may be allocable to the Knowles campaign.

3) The third allegation made by the Mr. Brooks that appears to implicate the ADP involves the dissemination of a press release by the ADP on behalf of the Knowles campaign. The document attached to the complaint by Mr. Brooks clearly demonstrates that the document was disseminated by the ADP via email. The ADP disseminated this release on behalf of the Knowles campaign since it had already had established an effective email distribution list for local and national media outlets for its own internal use. The dissemination of the press release by the ADP was entirely legal and appropriate. First, the ADP's dissemination of the email did not add any incremental cost to the ADP. Thus, there was no expenditure made by the ADP on behalf of the Knowles campaign. Second, since the dissemination of email is not a "public communication," the ADP did not make an in-kind contribution on behalf of the Knowles campaign by emailing the press release to its media list. The definition of "public communication" explicitly exempts internet and email from the definition of public communication. 11 C.F.R. § 100.26.

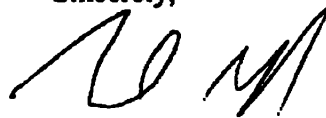
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Generally, the complaint in this matter contains no facts that properly allege a violation of the Federal Election Campaign Act. The complaint alleges that the ADP operated "Knowles" field offices but proffers no evidence that would suggest that the offices were operated in contravention of Commission regulations and precedent. The ADP has presented sworn statements that rebut, entirely, any insinuation that such offices were operated contrary to law. The Commission had been hesitant to assume facts that are not alleged in the four corners of a complaint and cannot, based upon the mere conclusory insinuation, that the ADP operated their field operation in contravention of Commission regulations. See MUR 4960, Statement of Reasons of Commissioners Mason, Sandstrom, Smith and Thomas. To the contrary, the ADP over-allocated the amount required against its coordinated expenditure limits and reimbursements received from the Knowles campaign.

For the reasons stated above, the Commission should find no reason to believe that the ADP, and Joelle Hall, as Treasurer, violated any provision of the Federal Election Campaign Act and close this matter with respect to the ADP.

Sincerely,



Neil Reiff  
Counsel to the Alaska Democratic  
Party, and Joelle Hall, as Treasurer

**BEFORE THE  
FEDERAL ELECTION COMMISSION**

<b>IN RE</b>	)	
<b>Alaska Democratic Party</b>	)	
	)	
<b>and</b>	)	<b>MUR 5564</b>
	)	
<b>Joelle Hall as Treasurer</b>	)	

**DECLARATION OF BRIDGET GALLAGHER**

1. I am the former Executive Director of the Alaska Democratic Party ("ADP"). I held this position from September 2003 through the end of November 2004.
2. As part of my responsibilities as Executive Director, I developed and oversaw the ADP field operation for the 2004 election cycle. In that capacity, I was responsible for designing and managing a field plan as well as developing a budget for the plan.
3. The ADP hired over 150 field organizers whose responsibilities included:
  - a. Door-to-door voter registration activity, voter identification and material distribution;
  - b. Volunteer recruitment on behalf of the party, including for precinct captains and election-day poll watchers;
  - c. Phone voter identification programs and persuasion calls;
  - d. Encouraging voters to vote by absentee ballot, both door-to-door and by phone;

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- e. Meeting with legislative candidates and party officials to participate in the ADP field program.

4. As part of implementing this program, it was determined that 20% of the program would be allocated to supporting the candidacy of Tony Knowles, the Democratic nominee for Senate in Alaska in 2004. This allocation included 20% of all aspects of the field program, including payroll, rent, utilities, phone bills, and other office operating expenses. At the time that this allocation was determined, the ADP was unaware of the provisions of 11 C.F.R. § 106.1 which exempted certain overhead activities from allocation as a contribution to a candidate. Furthermore, the ADP was unaware of the fact that the revised Commission regulations regarding party "coordinated communications" at 11 C.F.R. § 109.37 only applied to "public communications" as defined at 11 C.F.R. § 100.26. Therefore, in hindsight, the 20% appears to have been an unnecessary and conservative allocation for the field program.

5. As part of implementation of the 20% allocation, the ADP allocated a portion of each month's costs, as described above, of its field program to either its 441a(d) authority or were timely reimbursed for an applicable portion of the field program by the Tony Knowles for Senate campaign. Ultimately, the total amount allocated to the Knowles campaign for the field program, as well as a small amount of other coordinated expenditures made on behalf of the Knowles campaign totaled \$473,683.63.

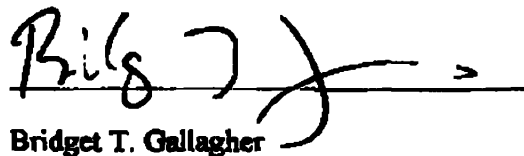
5. The overwhelming majority of the time spent by the field organizers were spent on intrapersonal communications via door-to-door activity. Field organizers spent a small portion of their time communication with voters via phone from their field

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offices. The amount of time spent on direct phone contact, which was the only "public communication" that the field staff was ordinarily involved in, with voters was significantly less than the 20% allocated to the Tony Knowles campaign.

6. At all times the field program was under my direct supervision and each employee reported directly to me. No field staff member was supervised directly by any employee or officer of the Tony Knowles for Senate campaign. Furthermore, all work product of the field program, such as walk lists and voter identification results remained the sole property of the ADP and were not provided to the Knowles for Senate campaign.

I declare under penalties of perjury that the foregoing is true and correct to the best of my present knowledge, information and belief. Dated this 8th day of December, 2004.

  
Bridget T. Gallagher

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